CASE 88-571 (2)

Supreme Court, U.S.
FILED
NOV 21 1988
JOSEPH F. SPANIOL, JR.
CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1988

JAMES HAROLD COSSETT PRO SE
AND
ROSA ANN COSSETT PRO SE

APPELLANTS

V.S.

THE UNITED STATES OF AMERICAL (ET.AL.)

LIST OF PARTIES
AT PAGE

APPELLEES

ON APPEAL FROM
THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Supplemental Brief

JURY DEMAND

JAMES H. & ROSA ANN COSSETT
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34P

IMPOSTURE LAWYER/ JUDGES

WHICH HAS BEEN SUBMITTED

TO: THE CONGRESSIONAL SUB COMMITTEE ON COURTS
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I

SUPPLEMENTARY QUESTIONS PRESENTED

In order to invoke jurisdiction of this Court under Article 3, Section 2, the answer to question No. 1 is of the utmost importance in order to decide whether or not Federal involvement is an issue in this Case and is pertinent to the entire matter in controversy.

1. Is the United States Congressional Sub-Committee on Courts negligent?

2. Has the United States Congressional Sub-Committee on Courts abused their discretion to deny due process by failing to respond to Appellants' Petition to remove imposture lawyer/judges and for relief from such judgments?

3. Did the United States District Court and the United States Bankruptcy Court abuse their discretion to deny Appellants' timely filed "Jury Demands"?

4. Does the aforementioned abuse constitute the denial of due process?

5. As described by the Court below, does there now exist a judicial controversy

as to whether [Bankruptcy Reform Act of 1978, Title 28 U.S.C. § 1480 Jury Trial] or was it supplanted by [Bankruptcy Federal Judgeship Act of 1984, Title 28 U.S.C. § 1411?

6. If yes, is this controversy a legislative problem and is it not grounds to deny timely filed "Jury Demands"? Moreover, is Title 28 U.S.C. Section 1480 B contrary to Amendment 7 of the United States Constitution?

7. Where is the proper jurisdiction of power to redress with regard to the issue of persons who are impersonating "judges" in State and Federal Courts? (Such persons have been ordained and established by a State Supreme Court).

8. Is it a denial of due process for a trustee to appoint himself as trustee by rubber stamp forgery and to impersonate a "judge"?

9. Is it a denial of due process for the aforementioned trustee to steal $31,920.91 by rubber stamp forgery and to impersonate a "judge"?

10. Is it a denial of due process for a trustee and lawyer to conspire to summons a person into Chapter 7 Bankruptcy Court?

11. Will a writ of certiorari issue to the United States District Trial Court to hear the validity of Judson L. Shattuck, Jr. sitting as a judge also to be heard before a jury of eight with respect to the amount in controversy pursuant to the United States Constitution Amendment 7?

12. In short, will the write of certiorari issue to hear the entire matter in controversy by jury?

LIST OF PARTIES

The Appellants are pro se litigants who are husband and wife and are citizens of the United States by birth and are as one estate.[1]

Footnote:
1. The Appelless are: The State of Ohio; (Past) Governor of Ohio, Honorable James A. Rhodes; (Present) Governor of Ohio, Honorable Richard Celeste; (Past) Chief Justice Ohio Supreme Court, Honorable Frank D. Celebrezze; (Present) Chief Justice Ohio Supreme Court, Honorable Tom Moyer; Court of Common Pleas, Greene County Ohio, Impostor Judson L. Shattuck, Jr.; Greene County Prosecutor, William F. Schenck; Bankruptcy Chapter 7

Pursuant to Rule 28 - (4) "A" of this Court, Charles Fried, Solicitor General of the United States and Anthony Celebrezze, Attorney General of Ohio.[2]

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Trustee; Imposture Lawyer/Judge George W. Ledford; Merchants and Mechanics Federal Savings and Loan Association, President Gene Deptner; Attorney, Jerome M. Strozdas; Attorney, Thomas T. Taggart; Imposture Lawyer/Judge, Nicholas A. Carrera; Imposture Lawyer/Judge, J. Timothy Campbell.

Footnote:
2. Congressional Sub-Committee on Courts: Chairmen Messrs. Robert W. Kastenmeier; Mike Synar; George W. Crockett, Jr.; Bruce A. Morrison; Howard L. Berman; Rick Boucher; John Bryant; Benjamin L. Cardin; Chairwoman Patricia Schroeder; Messrs. Carlos J. Moorhead; Henry J. Hyde; Dan Lungren; Michael DeWine; Howard Coble; D. French Slaughter, Jr.

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OPINION OF COURT BELOW
to deny "jury demands"

November 4, 1988 Entry reproduced as Appendix "A" filed

CASE NO. 88-337
IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

(INTERLOCKING)

February 20, 1986 Entry reproduced as Appendix "B" filed.

CASE NO. 84-02054
IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

November 8, 1988 Entry reproduced as Appendix "C". Notice of Appeal filed

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Case No. 88-337 interlocking Case No. 84-02054

OPINION OF COURT BELOW
to deny "jury demands"
and conspire to deny civil rights
(continued)

Now on appeal to the United States Supreme Court this case comes. Both courts below have abused their discretion and conspired to interfere with Appellants' civil rights.

May 13, 1985 Judicial Notice of Undisputed Fact was filed with "JURY DEMAND" before the United States District Court. The court disposed of this fact without discretion to deny but did, in fact, conspire to deny Appellants' civil rights.

The case was then returned to the United States Bankruptcy Court where, in open court, repeatedly Appellants' jury demands were denied.

(Memorandum)

MOREOVER, U.S.C. Title 11 Rule 9015 "A demand for trial by jury made herein provided may not be withdrawn without the consent of the parties."

At no time was consent given to withdraw.

(MEMORANDUM)

U.S.C. Title 11 Rule 9027 (1)
A party who prior to removal has made an express demand for trial by jury in accordance with Federal or State law need not renew the demand after removal.

At no time did the United States Districk Court or the United States Bankruptcy Court redirect Appellants to renew "jury demand".

It was more than evident that both courts had conspired to interfere and to deny Appellants their civil rights to a trial by jury.

CONCISE STATEMENT TO INVOKE JURISDICTION

1. Article Three Sections 1 and 2 of the United States Constitution provide in pertinent part:

Section One ..."The Congress may from time to time ordane and establish."

Section Two ..."and between a state or the citizens thereof,"

..."and those in which a state shall be party; the Supreme Court shall have original jurisdiction,"

..."jurisdiction to controversies to which the United States shall be a party."

2. Article Six of the United States Constitution provides in pertinent part:

..."This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding."

3. U.S.C. Title 11 Rule 1007

A bankrupt is not estopped from alleging the invalidity of a judgment.

4. (Civil Rights Act March 1, 1875) [Weaver vs. Haworth 1975 D.C. Okla (410 F Supp 1032)]

Which is purely procedural, appellate jurisdiction of the Supreme Court is

provided.

[Krieger vs. Republic Van Lines, Inc. 1977 D.C. Tex (435 F. Supp 335)]

Under Civil Rights Act, without regard to amount in controversy, does not give U.S. District exclusive jurisdiction.

5. [United States vs. Corrick, 298 U.S. 435 (1936)]

[Mayo vs. Lakeland Highlands Canning Co., 309 U.S. 310 (1940)]

From a decree whereby U. S. District Court has abused its discretion on November 4, 1988.

6. Pursuant to Rule 16.6

Any party may file a supplemental brief at any time while a jurisdictional statement is pending.

7. Pursuant to Rule 37.3

.3 On the court's own motion,...the court may order that two or more cases, involving what appear to be the same or related question.

8. Last but not least, Pursuant to the U.S. Constitution Amendment 7 and [U.S.C.S. Title 42 § 1958 Depriving persons of rights or privileges]

CONSTITUTIONAL PROVISIONS STATUTES INVOLVED

Are clearly spelled out in original "Jurisdictional Statement".

STATEMENT OF THE CASE

On February 20, 1986 at Page 3, the Bankruptcy Court conceded that Appellants were solvent.

> "As a general comment, we note that the solvency of the Debtors is not an issue in their case."

The next question is then why are Appellants in Chapter 7 U. S. Bankruptcy Court? For more than four years, this case was passed back and forth to the U. S. District Court and the U. S. Bankruptcy Court. Each and every time Appellants demanded a trial by jury and made service on the adverse parties. The last Entry on November 4, 1988 in the U. S. District Court, wasted no time

in making Appellants insolvent and said at Page 3:

> "While the issue of solvency is triable to a jury, the action of the Debtors themselves, first in filing and then in moving to reopen their bankruptcy case, removed the issue of solvency".

M&M also conceded that Appellants were solvent, but on November 8, 1984, filed a Summons on Complaint (see App E) to force Appellants into Chapter 7 bankruptcy. This cause of action was a conspiracy to embezzle and steal $31,920.91, cash money, and to enforce an ex-parte erroneous judgment by imposture lawyer/judge by Judson L. Shattuck, Jr. who on September 8, 1982 was unlawfully holding the office of judge.

[The case of M&M vs Cossetts] now comes before this Court and Appellants demand that these issues be tried before a jury or have the entire matter in controversy sent up to this Court. This demand is clearly spelled out in Appellants' Notice of Appeal and service was made on November 8, 1988 to the

adverse parties. The issue of solvency also now becomes an issue in this case. On November 4, 1988, Appellants became insolvent by the Entry of Judge Walter Rice, U. S. District Court which was purely biased and prejudiced because Appellants wished to continue their fight against imposture lawyer/judges.

SUMMARY OF ARGUMENT

The Seventh Amendment of the United States Constitution has absolutely been violated of the rights preserved by a trial by jury. For the past six years, Appellants have timely filed and demanded a trial by jury.

At this point, Appellants would be untrue to their beliefs if they did not note here that they have lost faith in our judicial system. Every American faces an ever increasing bondage that is being imposed through more and more bad legislative and regulatory acts and by unjust lawyers. One-by-one, they strip us of our freedoms and

stifle our will to do for ourselves. The very deeds that made this land blessed with:

PRIVILEGE based on RESPONSIBILITY

DIGNITY based on JUSTICE

REWARD based on INDIVIDUAL EFFORT

These principles are being lost due to the ever increasing grip that the lawyers have over the American public in their all-out effort to gain more and more power. It is now legal for lawyers to act as judges in the state of Ohio of their own free will. A pro se litigant standing on the truth and sound constitutional principles cannot <u>expect justice</u>.

Appellants have stood on the truth and have put up every penny of their life's earning to back it up and they now feel that they will lose due to the deceptions and illegal manipulation of unjust lawyers.

Appellants now take heed to the warning of retired Chief Justice Warren Burger where he warned:

"We are fast becoming a nation with a

herd of lawyers who are as hungry as locus."

At the beginning of this action, Appellants were in a conflict with the Merchants and Mechanics Federal Savings & Loan Association (M&M) of Springfield, Ohio and do have evidence to prove that Mr. Wayne Sphar and Mr. Harold Cunningham, Vice Presidents of M&M devised a scheme to embezzle money from Appellants' account. Appellants were holding money in escrow from M&M and asking for a correct balance of their account.

In the Court of Common Pleas, Greene County, Ohio, Case No. 413, M&M claimed default of payments and brought foreclosure action against Appellants. The case was assigned to Judge Judson L. Shattuck, Jr., Court of Common Pleas, Greene County, Ohio. No answer was filed in the original action with the court by Appellants in this action. Appellants knew that Mr. Sphar and Mr. Cunningham had been removed from their positions from M&M and that Mrs. Mary McCormick had been promoted to Vice President and assigned

Appellants' account. What Appellants did not know was that Mrs. McCormick had been assigned the task of covering up the scheme that Mr. Sphar and Mr. Cunningham had committed. Mrs. McCormick had offered to make proper adjustments to Appellants' account and to drop the foreclosure action. In return Appellants did, in fact, turn over $3,000.00, escrow money, that they were holding to Mrs. McCormick. However, Mrs. McCormick had no intentions of stopping the foreclosure action. The money, to stop all legal action, was paid on August 19, 1982. The ex-parte extortion judgment by imposture lawyer/judge was given on September 8, 1982. Since this time, Appellants have been exposed to a court system that would stagger the minds of all just men and women. An accurant description would be a "den of theives"!

ARGUMENT & POINTS OF FACT

On November 28, 1986, Appellants put forth an assertive effort to have Case No.

82 CV 413 brought back into the court of origin. Appellants timely demanded and served upon the adverse parties "Jury Demands".

The new governor, Richard Celeste, was given the opportunity to enter the action as a third party and friend of the court. This effort fell on blind eyes and deaf ears.

At App. D , Appellants hereby offer for review Motion for Leave to Bring in Third Party Friend of the Court in its entirety to be considered as Appellants' "Argument & Points of Fact".

CONCLUSION

Specifying relief, Appellants can only conclude that the United States court system, in itself, is a crime. There is great need of reform. The unruly "practice of law" has spread to the Federal court system. Judge Walter Rice of the U. S. District Court and Judge William A. Clark of the U. S. Bankruptcy Court have dirty hands in their administrations. The acts of unruly practice of law

have been brought to the attention of the Federal Disciplinary Counsel and has created a forum of bias and prejudice from which Appellants now leave.

The framers of the United States Constitution Amendment 7 have said

> "right of trial by jury shall be preserved."

The framers could have only intended to safeguard the right forever retained to the people. The right to a trial by jury is in such a state of preservation, that for the last sixe years, Appellants have been unable to un-preserve it. The word preserved has no meaning in today's courts. Appellants contend that it should be changed to automatic. The word preserved has only historical significance and has no value to persons who seek to use this guaranteed right.

The unruly "practice of law" is an ever-growing cancer is the American judicial system. As long as the judicial branch of government is self-policed, there will be

change.

As one remedy for relief, Appellants must be given the opportunity to expose these persons and bring about change in our American court system. These people who are self-served and self-policed have to know that someone is monitoring them. As a general note, Appellants know that there would be those who would abuse this automatic right; however, on the other hand, lawyers and judges are consistently abusing their discretion to deny this right especially when there are issues which involve the judicial system. In short, you can't speak out against the King or his Court.

This Court has jurisdiction under Rule 37 .3 to order two or more issues which appear to be of the same be argued together as one case.

The unruly "practice of law" is the reason Appellants are insolvent today.

This Court also has jurisdiction to is-

sue a writ of certiorari under the Code of Cannon & Professional Responsibility to have the entire matter in controversy tried before a jury.

If this Court refuses jurisdiction in these matters, respectfully, Appellants will re-direct these matters to an original action to include the United States of America under Article 3, Section 2.

> ..."to controversies to which the United States shall be a party:"

The two main issues before this Court today are:

1. The unruly practice of law
2. The issue of solvency of Appellants

The Appellants demand the return of their estate plus interest.

Respectfully submitted,

James H. Cossett
JAMES H. COSSETT

Rosa Ann Cossett
ROSA ANN COSSETT

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

FILE STAMPED Nov. 4, 1988

IN RE: COSSETTS : Case No. C-3-88-337
Debtors, MS-3-87-13

- -

DECISION AND ENTRY CONSOLIDATING CAPTIONED CAUSES: REMAINING MOTIONS/APPEALS OF DEBTORS DEEMED NOT WELL TAKEN AND ARE, ACCORDINGLY, DENIED IN THEIR ENTIRETY: TERMINATION ENTRY

- -

There are now pending before this Court motions/appeals regarding issues arising from Bankruptcy Case C-3-84-02054, filed in this Court as Case C-3-88-337 and MS-3-87-13. The documents filed in the two cases before this Court assert facts and issues which have been previously asserted in various documents and addressed in previous decisions in the bankruptcy case and assorted appeals therefrom. The Debtors have moved this Court to consolidate the cases (C-3-88-337 Doc. é6, p 2), which motion is hereby granted.

Case C-3-88-337 is an appeal by the Debtors from the Order of Discharge issued by the Bankruptcy Court on June 13, 1988 (C-3-84-02054, Doc. No. 205). Although Case MS-3-87-13 originated on the Motion of

Merchants & Mechanics Federal Savings & Loan Association (M&M) for this Court to abstain from taking jurisdiction over disposition of proceeds of a supersedeas bond in the state courts, which issue has been decided (Docs. Nos. 7, 9, 10), the Debtor has filed under this case a document (Doc. No. 15) which appears to represent an appeal from the Order for Final Distribution issued by the Bankruptcy Court on May 16, 1988 (C-3-84-02054, Doc. No. 201). In consideration for the status of the Debtors as pro se litigants and in the interest of stemming the fissiparous growth of pleadings relating to the bankruptcy and bringing the case to a final resolution, this Court will consider the two cases as appeals from the Bankruptcy Court's Orders of Final Distribution and Discharge and will herein address the issues raised by the Debtors regarding these Orders.

A reading of the documents submitted by the Debtors in cases C-3-88-337 and MS-3-87-13 (excluding those pertaining to the Motion to Abstain of M&M suggests that the Debtors object to the Orders of Distribution and Discharge because:

1) the Debtors are not properly in bankruptcy

and are entitled to a jury trial on the issue of their solvency (C-3-88-337, Doc. No. 6, p 8);

2) the original judgment awarded to M&M in state court is invalid (Doc. No. 3, pp 9-10, 14-18);

3) the amended claim submitted by M&M to the Trustee is invalid as resulting from a state court judgment which violated an Order of this Court (Ms-3-87-13, Doc. No. 15, pp 3-4); and

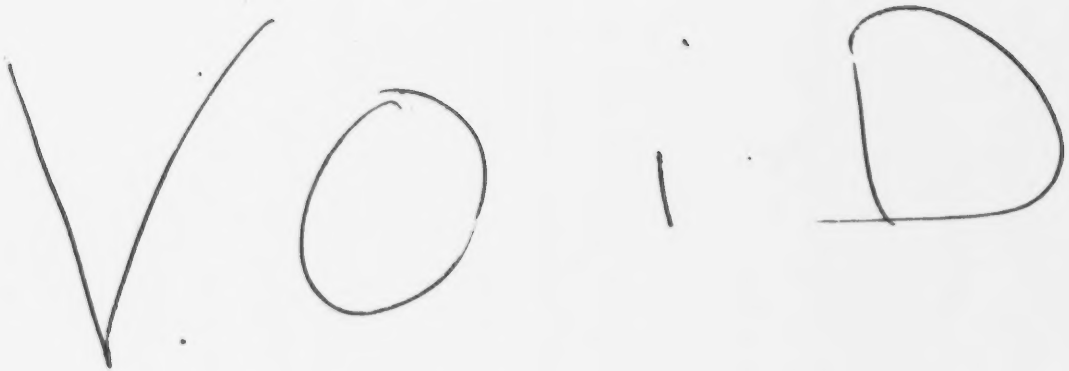
4) the fund was not properly subject to distribution by the Trustee (Doc. No. 15, p 2).

The Debtors also request that they be awarded funds representing their equity in the real property and the supersedeas bond (Doc. No. 15, p 6).

For reasons briefly set forth below, this Court finds that these objections are not well taken and, excluding Debtors' Motion to Consolidate, the motions/appeals of the Debtor are denied in their entirety.

With respect to Debtors' first objection, the Bankruptcy Court entered its decision on February 20, 1986 (C-3-84-02054, Doc. No. 110), overruling Debtors' Motion for a Jury Trial. Debtors made no timely appeal of this decision. Debtors' argument that decision on this issue was reserved ("This Court need not

decide that issue at this time." C-3-88-337, Doc. No. 6, p 8, emphasis added by the Debtors, quoting the Bankruptcy Court's decision, Doc. No. 110, p3) is unavailing. The Bankruptcy Court concluded that it need not address competing interpretations of 28 U.S.C. § 1480 and § 1411 at that time, because there were no issues with regard to the Debtors' case that were triable to a jury under either statute (Doc. No. 110, pg). Although the decision of the Bankruptcy Court was not timely appealed, this Court noted in its decision on Debtors' appeal (Doc. No. 132) of a later Bankruptcy Court decision (Doc. No. 122, April 25, 1986) that it agreed with the conclusion of the Bankruptcy Court that while the issue of solvency is triable to a jury, the actions of the Debtors themselves, first in filing and then in moving to reopen their bankruptcy case, removed the issue of solvency from consideration by the Court (Doc. No. 132, p 2; see also C-3-86-195, Doc. No. 10, p 2). Again, this Court notes that it has been apprised of no issues in this case that would entitle the Debtors to a jury trial. This Court finds that Debtors' objection to the Orders of Distribution and Discharge on the grounds that an


VOID

issue remains as to their solvency which is triable to a jury is both untimely and not well taken.

With regard to the Debtors' second objection, that the original judgment awarded to M&M is invalid, this Court noted in its decision on Debtors' appeal (C-3-84-02054, Doc. No. 65) of the Bankruptcy Court's refusal to stay the sale of Debtors' residence (Doc. No. 64) its belief that the judgment awarded to M&M by the Greene County Court of Common Pleas in 82-CV-413, which was unsuccessfully appealed by Debtors through the state judicial system to state's highest court, operates as res judicata in this Court and cannot herein be collaterally attacked (Doc. No. 82a, p 3; see also C-3-86-449, p3). This Court is bound by both the fact of and the amount of the judgment awarded to M&M in the Common Pleas Court and affirmed on appeal; therefore, this Court finds that Debtors' objection to the Orders of Distribution and Discharge on the grounds that the original judgment awarded to M&M is invalid is not well taken.

With regard to the third objection, Debtors also object to the Orders of Distribution and Discharge on the grounds that the amended claim submitted to the

Trustee by M&M is invalid in that it is based on a state court's confirmation of sale in violation of an Order of this Court (MS-3-87-13, Doc. No. 15, pp 3-4). One identifiable point of origin for this objection is in the decision of this Court on April 28, 1086, vacating the Order of Relief from Stay which had been granted to M&M until such time as the Bankruptcy Court should address whether the supersedeas bond provided adequate protection to M&M without immediate sale of the real estate (C-3-84-02054, Doc. No. 32, p 6; see also C-3-86-195, Doc. No. 10, p 6). Pending the Bankruptcy Court's reconsideration of the granting of relief from the stay to M&M, which would allow M&M to proceed on its state court judgment, the Trustee filed notice of his intent to sale the real estate (C-3-84-02054, Doc. No. 133). In a decision entered on August 7, 1986, the Bankruptcy Court determined that the Trustee could proceed with the sale of the real estate in keeping with his statutory duty to liquidate the Debtors' property for the benefit of the estate, only if the sale realized a minimum of 68,000 and that if the Trustee should be unable to the property for at least 68,000 he should consider

abandoning the property as a burden to the estate (Doc. No. 148, pp 5-6). Without expressing an opinion as to the propriety of abandonment, this Court upheld the Bankruptcy Court's decision as to sale of the real estate by the Trustee (Doc. No. 151, p 7; see also C-3-86-365, Doc. No. 2, p 7).

During the period in which the Trustee was attempting to sell the Debtors' property, M&M was granted relief from the stay upon a determination that M&M was not afforded adequate protection by the supersedeas bond, that a stay did not at that time serve the policies underlying stays in bankruptcy, and that the claims of unsecured creditors were imperiled by the escalating interest on the claim of M&M (Doc. No. 156). The Debtors' appeal was dismissed when they neither paid filing fees nor completed the in pauperis papers sent to them (C-3-86-452, Doc. No. 4). At that point, the Trustee could sell the Debtors' real property for the minimum 68,000 price established by the Bankruptcy Court or M&M could proceed on its state court judgment according to the standards established therein. The Trustee was unable to sell the property for the minimum price (see C-3-84-02054, Docs. Nos. 162, 163) and

later filed Notice of Abandonment (Doc. No. 192). M&M, having been granted relief from the stay, proceeded on its state court judgment. On December 4, 1986, the Greene County Court of Common Pleas issued an Order confirming the sale and holding that M&M was owed a balance of 25,152.85 plus 11 percent interest from November 8, 1986, the date of sale (82-CV-413). Because M&M had been granted relief from the stay to allow it to proceed in state court and because only the Trustee could be bound by this Court's minimum sale price, neither the fact of the sale nor the price realized violated any Order of this Court. The Order confirming the sale was apparently not appealed through the state court system and, therefore, cannot be collaterally attacked in this Court. The holding of the Common Pleas Court that there remained a balance owed by the Debtors of 25,152.85 plus interest operates as res judicata on this Court.

Thus, the Court finds that Debtors' objection to the Orders of Distribution and Discharge, based on their claim that the amended claim submitted by M&M to the Trustee is invalid because it is based on a state court confirmation of sale in violation of an Order of this

Court, is not well taken.

Finally, with regard to the fourth objection, the Debtors object to the Orders of Distribution and Discharge on the grounds that the supersedeas bond was not lawfully subject to distribution by the Trustee (Doc. No. 15, p 2).

An Order for Turnover of Funds was issued by the Bankruptcy Court on May 27, 1985 (Doc. No. 42), directing the Clerk of the common Pleas Court of Clark County to turn over to the Trustee the 31,420.91 judgment awarded to the Debtor in an unrelated case, which fund served as the supersedeas bond in Debtors' appeal of the Greene County judgment awarded to M&M against Debtors (see Doc. No. 156). Thus, the supersedeas bond became an asset of the estate subject to the administration of the Trustee (Doc. No. 156, p 3). Both this Court and the Bankruptcy Court have previously considered the Debtors' claims against the Trustee and have concluded that the Trustee was lawfully appointed, has properly discharged his duties and has not been the proximate cause of any injury to the Debtors (Docs. Nos. 82, 108, 109; see also Case C-3-85-449). It is the duty of a Chapter 7 Trustee to "collect . . .the prop-

erty of the estate. . .and close up such estate as expeditiously as possible." 11 U.S.C. § 704(a). Thus, the Court finds that the final objection of the Debtors, based on their claim that the supersedeas bond was not properly subject to distribution by the Trustee is not well taken. Because this Court finds that the supersedeas bond was properly subject to distribution by the Trustee, and because the fund was exhausted by lawful claims, including that based on the December 4, 1986, judgment of the state court (Doc. Nos. 193, 201), this Court is unable to honor the Debtors' request (Doc. No. 202, p 6) for a return to them of the fund. The fund has been used to satisfy Debtors' obligations.

The Debtors also claim that they are entitled to recover the "equity in property which was taken without due process." (Doc. No. 202, p 6). Because this Ccurt has not found that the sale of the Debtors' real property violated any Order of this Court and because the judgment of the Greene County Common Pleas Court that there remained a balance owed by Debtors to M&M operates as res judicata in this Court, this Court is compelled to find that there is no equity to recover.

In sum, this Court grants Debtors' Motion to Consolidate Cases (C-3-88-337, Doc. No. 6, p 2), and finds that the Debtors' objections to the Orders of Distribution and Discharge (C-3-88-337, Docs. No. 6, 3; and MS-3-87-13, Doc. No. 15) are not well taken, in that all issues raised therein were either not appealed to the proper forum, were not timely appealed, or are otherwise subject to the res judicata effect of previous determinations in this and other courts. This Court also finds that the Debtors are not entitled to the funds requested and finds that the Bankruptcy Court should proceed on the Orders of Distribution and Discharge (C-3-84-02054, Docs. No.s 201, 204) to close the estate.

The captioned causes are hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Signed by: WALTER H. RICE
UNITED STATES DISTRICT JUDGE

APPENDIX B

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

IN RE: FILE STAMPED FEBRUARY 20, 1986

JAMES HAROLD COSSETT : BANKRUPTCY CASE NO. 3-84-02054

ROSA ANN COSSETT :

DEBTORS

DECISION AND ORDER DENYING DEBTORS' REQUEST FOR JURY TRIAL

NOTE:

The above same Decision & Entry has been reproduced in the March 7, 1988 original "Jurisdiction Statement" marked as Appendix O.

On March 7, 1988, the United States District Court had not yet completely interlocked its decision to deny Appellants' "Jury Demands". The November 4, 1988 interlocking Decision & Entry is the reason for this supplimentary brief.

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

FILE STAMPED NOV. 8, 1988

COSSETTS, PRO SE PLAINTIFF-DEBTORS	U.S. DISTRICT COURT CASE NO. C-3-88-337 (INTERLOCKING)
VS	
MERCHANTS & MECHANICS DEFENDANTS	U.S. BANKRUPTCY COURT CASE NO. C-3-84-02054 JURY DEMAND

- -

NOTICE OF APPEAL

To enforce civil rights for "JURY DEMANDS" or to have the entire matter in controversy consolidated with Case No. 88-571 "JURISDICTION STATEMENT" now pending before the United States Supreme Court.

- -

Plaintiff-Debtors herein give Notice of Appeal to the United States District Court for the Southern District of Ohio Western Division at Dayton. Plaintiff-Debtors do appeal to the United S[illegible]preme Court which is purely procedural [Weaver vs Haworth 1975 D.C. Okla. 410 F Supp 1032].

Plaintiff-Debtors are appealing from an appealable interlocking Decision & Entry (in its entirety) filed November 4, 1988 in the United States District Court (see Exhibit "a") and the Decision & Order Denying Debtors Demand for Jury Trial filed in the

United States Bankruptcy Court on February 20, 1986 (see Exhibit "B").

BOTH COURTS HAVE ABUSED THEIR DISCRETION BY DENYING THE GUARANTEED CIVIL RIGHT TO TIMELY FILED JURY DEMANDS.

(MEMORANDUM OF LAW)

[The U.S.C. Title 11, Section 42 Jury Trial]
(A) A person against whom an involuntary petition has been filed shall be entitled to have a trial by jury in respect to the question of his insolvency.

The United States District Court is clearly erroneous in its Decision & Opinion at page 3 pertinent in part..."in moving to re-open their bankruptcy case, removed the issue of solvency from consideration by the Court."

On November 8, 1984, Summons & Complaint with petition to convert Chapter 13 bankruptcy to a Chapter 7 liquidation of Plaintiff-Debtors' solvent estate, was filed by Jerome M. Strozdas, attorney for Merchants and Mechanics Federal Savings & Loan Association, and service was also made upon Plaintiff-Debtors on November 8, 1984. (See Exhibit "C").

This forceful involuntary action supersedes Plaintiff-Debtors' November 28, 1984 Motion to re-open

Chapter 13 bankruptcy. (See Exhibit "D"). This action was merely an attempt to prevent Plaintiff-Debtors' solvent estate from being liquidated and at no time have they ever refused to pay their honest debts or been unable to pay their honest debts. Their offers to pay were simply refused. A Motion to stay enforcement of judgment and a Supplementary Jurisdictional Statement will be timely filed with the United States Supreme Court to have the entire matter in controversy consolidated with Case No. 88-571 now pending in the United States Supreme Court.

Respectfully submitted,

Signed by: JAMES H. COSSETT
ROSA ANN COSSETT
P. O. Box 191
Bowersville, OH 45307
614-948-2452

APPENDIX D

IN THE COMMON PLEAS COURT
GREENE COUNTY, OHIO

MERCHANTS & MECHANICS (ET AL) PLAINTIFF	:	FILE STAMPED NOV. 28, 1986
GOVERNOR RICHARD CELESTE THIRD PARTY PLAINTIFF	:	MOTION FOR LEAVE TO BRING IN THIRD PARTY AS AMICUS CURIAE, ENDORSED HEREON BY DEFENDANTS
VS	:	JURY DEMANDS
COSSETTS DEFENDANTS	:	CASE NO. 82-CIV-413

Now come the Cossetts, as a third-party Plaintiff, and Governor Richard Celeste, as Amicus Curiae, and move this Court for leave to intervene and for leave to allow third-party practice in this instant case in order to expedite said case in the best interest of justice and for the Court to issue a Summons on all liable third-party Defendants who will be named after oral argument before the Court.

PURSUANT TO CIV R 14 THIRD-PARTY PRACICE

We, the undersigned, as endorsed by the Governor of the State of Ohio, the Honorable Richard Celeste, and as citizens of the United States of America and the State of Ohio against injustice perpetrated by the unethical, incorrect, and illegal conduct by the office of the Governor, attorneys-at-law, judges, and

other members of the Court, hereby demand the prohibition of practicing attorneys sitting in judgment and call for the reaffirmation of Constitutional Law regarding the separation of attorneys and judges, the "practice of law" and adjucation, the separation of powers.

COMPLAINT

POINT OF FACT I. Complaintant demands the lawful removal of the JUDEX PENDANEUS who dispenses judgments under the guise of justice, without the consent of the adverse parties, for profit, but whose appointment is, in fact, preter legal, from the bench in the American Courts of Law, because she/he engages in the "practice of law" in particularly, those sitting on the Bench in this Case No. 82-CV-413.

MEMORANDUM

> U.S.C. Title 28, Section 607, states "An officer or employee of the administrative office shall not engage directly or indirectly in the 'practice of law' in any court of the United States" (June 25, 1948, c. 646 962 stat. 915.)

POINT OF FACT II. Complaintant further demands that no judge has the authority to appoint, delegate, or assign a member of the Bar Association, a practicing

attorney, to act in his stead. Nor does any judge have the right to appoint, delegate, or assign an imposter lawyer/judge or other member of the Court to "hear" a case without the consent of the adverse parties.

Complaintant contends there is no Constitutional structure or formulation for monetary compensation for the JUDEX PEDANEUS. Further, such a person is deficit in the accompanying accouterments of the official office of judge; i.e., the battery of law clerks for research and the administrative staff at his command to officially assist in discerning questions of law and in formulating correct judgments.

MEMORANDUM

> By legal definition, a judge is an officer so named by commission, and is the chief member of a Court who is charged with control of proceedings and the decision of questions of law or discretion (Todd vs U.S. 158 U.S. 278, 15 S. Ct. 889, 39 L. Ed. 982); he is a public officer who by virtue of his office is clothed with the judicial authority (State ex rel. Mayer v. City of Cincinnati, 60 Ohio App. 119, 19 N.E. 2d 902) who from time-to time receives compensation for services rendered from the people.

POINT OF FACT III. Complaintant asserts that a practicing attorney-at-law has no Constitutional authority

to sit in judgment, act as judge or jury, or perform the duties of a judge and levy fines from which compensation for services are rendered is exacted.

MEMORANDUM

> As specified by law, U.S.C. Title 28, Section 454 states, "Any justice or judge appointed under the authority of the United States who engages in the practice of law is guilty of a high misdemeanor" (June 25, 1948, c. 646-1.62 stat. 908.)
>
> Further, O.R.C. 4705.01 explicitly states: "No judge of any record in this State shall engage in the "practice of law" during his term of office."

POINT OF FACT IV. Complaintant states time spent as a domestic referee, who is not permitted by law to be a practicing attorney, does not constitute the "practice of law" and a domestic referee is an employee of the Court. Such rationale to the contrary would constitute conspiracy.

Further, Complaintant offers for examination the conspiratorial plot of Governor James A. Rhodes, who appointed Judson L. Shattuck, Jr., as a political favor to the Republican Party, as judge--even though Shattuck remained a practicing attorney during said appointment. In addition, Shattuck, who lacked the requisite credentials for such an office as judge

and who was ousted by the Second District Court of Appeals, Case No. 82 CA 29, was reinstated in Case State ex rel Schenck vs Shattuck 1982. 1 Ohio St. 3d 272 because of his "favorite son" position in the nepotism practiced by former Governor James A. Rhodes.

Complaintant asserts that such litigation is a sham, that Judson L. Shattuck, Jr. lacks the neccessary term of "practice of law"--no matter what the dcuble rhetoric has stated, that Shattuck rendered an illegal decision in Complaintant's Case No. 82-CIV-413 while he was officially ousted from the office of judge thereby knowingly and willingly establishing himself as a party to the illegal action, and. that former Governor James A. Rhodes, knowingly and willingly appointed the unqualified Judson L. Shattuck, Jr. as judge, thereby, becoming a party to the conspiracy and responsible for the aforementioned illegal judgment entry.

MEMORANDUM

> According to Black's Law Dictionary, Fifth Edition, "An attorney engages in the 'practice of law" by maintaining an office where he is held out to be an attorney, ccunseling clients in legal matters, negotiating with opposing counsel about pending

litigation, and fixing and collecting fees for services rendered by his associate. State v. Schumacher, 214 Kan. 1, 519 P2d 1116, 1127."

NOTE: Ohio R.C. 2301.01--"A total of at least six years:--Judson L. Shattuck, Jr. Does not have the necessary years of "practice of law" as is legally defined. Shattuck's appointment by Rhodes constituted a desceptive, political act of favoritism, which was upheld in the Ohio Supreme Court by conspiracy.

POINT OF FACT V. Complaintant states that on April 19, 1982, Governor James A. Rhodes had no Constitutional right or judicial power to appoint, delegate or assign an unqualified person to the bench of the State or local Courts; hence, Judson L. Shattuck, Jr. was illegally appointed to same.

Complaintant further contends the above constitutes a concerted Court action against this Complaintant as a result of the conspiracy perpetrated by the above parties to the conspiracy to undermine the Constitution of the United States and to reign supreme over the United States Government. When person or persons try to short circuit justice, or evade Con-

stitutional law for their own betterment or financial gain, or establish their own superiority over the law of this land--such actions are punishable by law.

MEMORANDUM

> In accordance with the Constitution of Ohio, Article II, Section 24, "The governor, judges, and all state officers, may be impeached for any misdemeanor in office; but judgment shall not extend further than removal from office, and disqualification to hold any office under the authority of this state. The party impeached, whether convicted or not, shall be liable to indictment, trial, and judgment, according to law."

IN CONCLUSION, the Honorable Governor Richard Celeste, as Amicus Curiae, and Complaintant respectfully moves this Court to uphold the United States Constitution, to uphold State of Ohio statutes, as prescribed for the people, by the people.

Jurisdiction is invoked under the Constitution of Ohio and the Ohio Revised Code 3.0B, Procedure for Removal of Public Office.

DEMAND FOR RELIEF

1. To protect Complaintants' Constitutional right to a trial by a jury of their peers, impaneling a jury of eight.

2. To vacate the ex parte extortion judgment rendered

by Judson L. Shattuck, Jr. and to show just cause why he should not be removed from the office of judge, in Case No. 82-CIV-413. Further to vacate all judgments rendered in this case by the Judex Pedaneus. To declare this case a mistrial.

3. To indemnify Judson L. Shattuck, Jr. et al. to restore Complaintant of the anticipated loss of their home, in whole or part, by payment of money or replacement thereof.

4. To return the 40,340.18 supersedeas bond, plus interest computed at fair market rates, to the Complaintant, which Complaintant entrusted as an Appeals bond.

5. Finally, to remove and forbid all IMPOSTER LAWYER/JUDGES from sitting the bench of Ohio Courts, beginning with the Common Pleas Court of Greene County, Ohio, for the protection of the people and to uphold the Constitution of the United States.

Respectfully submitted,

SIGNED BY: JAMES H. COSSETT, Pro Se
ROSA ANN COSSETT, Pro Se

SEEN/REFUSED TO SIGN: NOV. 28, 1986 HON. GOVERNOR RICHARD CELESTE, as Amicus Curiae

B07B
(Rev. 6/83)

United States Bankruptcy Court

For the Southern District of Ohio
Western Division

In re

James Harold Cossett
Rosa Ann Cossett

No. 3-84-02054

Debtor,

Contested Matter (A)
All pleadings must carry
this identification letter

MERCHANTS AND MECHANICS FEDERAL
SAVINGS AND LOAN ASSOCIATION
% Jerome M. Strozdas, Attorney
310 M&M Bldg., P.O. Box 1406, Springfield, OH 45501

MOVANT(S)

VS

JAMES HAROLD COSSETT
ROSA ANN COSSETT
4289 Chippewa Trail
Jamestown, OH 45335

RESPONDENT(S)

appendix e

SUMMONS

To the above-named Defendant:

You are hereby summoned AND REQUIRED TO SERVE upon Jerome M. Strozdas, plaintiff's attorney, whose address is 310 M&M Building, P.O. Box 1406, Springfield, OH 45501, A MOTION OR AN ANSWER* to the motion which is herewith served upon you, ON OR BEFORE 10 Days from Date of Service, AND TO FILE THE MOTION OR ANSWER WITH THIS COURT not later than the second business day thereafter. IF YOU FAIL TO DO SO, JUDGMENT BY DEFAULT WILL BE TAKEN AGAINST YOU for the relief demanded in the complaint. NOTICE IS HEREBY GIVEN that if responsive pleadings are filed the matter will come on for a preliminary or final hearing on 12-6-84 at 1:30 o'clock P M in Courtroom 811 in the Federal Building/U.S. Courthouse, 200 West Second St., Dayton, Ohio 45402. If responsive pleading are not filed, respondent will be deemed to have consented to the lifting of the automatic stay.

CC: George W. Ledford, Trustee
9 W. National Road
Englewood, OH 45322

[Seal of the U.S. Bankruptcy Court]

ARNOLD M. MALECH
Clerk of Bankruptcy Court

By: Frank N. LeMay
Deputy Clerk

Date of issuance: November 8, 1984

App: 9

*If you make a motion, as you may in accordance with Bankruptcy Rule 702, that rule governs the time within which your answer must be served

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true copy of the foregoing Supplemental Brief & Jury Demands was served upon by United States ordinary mail to the list of parties below on November 19, 1988.

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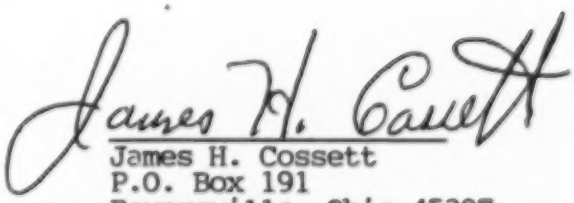
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THE END